

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

GREGORY TAYLOR,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-14-10-M
)	
FEDERAL CORRECTIONS)	
TRANSFER CENTER OF)	
OKLAHOMA,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

Plaintiff filed a civil rights suit, Doc. 1, and Chief United States District Court Judge Vicki Miles-LaGrange referred the matter to the undersigned Magistrate Judge for initial proceedings pursuant to 28 U.S.C. § 636(b)(1)(B), (C). Based on Plaintiff's failure to make an initial partial filing fee payment, the undersigned recommends that the Court dismiss the action without prejudice.

I. Analysis.

The Court granted Plaintiff permission to proceed without prepayment of the full filing fee but notified him that pursuant to 28 U.S.C. § 1915(b)(1), he must pay an initial fee of \$8.02. Doc. 8. The undersigned advised Plaintiff that he must either pay the initial partial filing fee, or show cause in writing for the failure to pay, on or before February 24, 2014. *Id.*

Instead of submitting payment, Plaintiff wrote the Clerk of the Court a letter stating that under 49 U.S.C. § 114, “Financial Information as to Petitions are not needed for filing, which makes said petition, free of charge.” Doc. 9. In response, the undersigned advised Plaintiff that 49 U.S.C. § 114 does not apply to the current action and that the Court’s previous payment order remained in effect. Doc. 10. The undersigned then instructed Plaintiff that he had fifteen days, or until March 12, 2014, to either pay the initial partial payment of \$8.02 or show cause in writing for his failure to do so. *Id.* Plaintiff did neither. So, the undersigned recommends that the Court dismiss Plaintiff’s action without prejudice to refiling. *See* LCvR3.4(a) (“Failure to pay the filing fees by the date specified, to seek a timely extension within which to make the payment, or show cause in writing by the date specified for payment shall be cause for dismissal of the action without prejudice to refiling.”); *Freeman v. Colo. Dep’t of Corrs.*, 396 F. App’x 543, 543-44 (10th Cir. 2010) (affirming the district court’s dismissal of inmate’s complaint after plaintiff failed to “pay the initial partial filing fee” or “show cause why she could not pay the fee”).

II. Recommendation and notice of right to object.

For the reasons set forth above, the undersigned recommends that the Court dismiss the complaint without prejudice.

Plaintiff is advised of his right to file an objection to the report and recommendation with the Clerk of this Court by the 14th day of April, 2014, in accordance with 28 U.S.C. § 636 and Fed. R. Civ. P. 72. Plaintiff is further advised that failure to make a timely objection to the report and recommendation waives the right to appellate review of both factual and legal questions contained herein. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

Adoption of this report and recommendation will terminate the referral in the present case.

ENTERED this 25th day of March, 2014.



SUZANNE MITCHELL
UNITED STATES MAGISTRATE JUDGE